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THE  
AMERICAN LAW REGISTER.

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DECEMBER, 1869.

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THE JUDICIAL SYSTEM OF FRANCE.

FRANCE, with a population of 37,000,000, is divided into 86 departments; each department is divided into districts, or, as they are called, *arrondissements*, of which there are 363, in each of which is a court, known as the Tribunal of First Instance, making 363 of these courts.

Each district is divided into cantons, of which there are 2847, each canton into communes or parishes, of which there are 36,819. In each canton there is a justice of the peace, who decides summarily, without the intervention of attorneys, all matters in contests of small importance, and has jurisdiction in criminal matters where the fine imposed does not exceed fifteen francs (\$3), or where the imprisonment is for five days or less. The Tribunal of Justice of the Peace also acts with the consent of parties as a court of conciliation. There are 2847 justices of the peace. They are all salaried officers, and are professional men. The *maires* of communes also exercise, it would seem, some judicial authority. The appeal from the decision of the Tribunal of the Justice of the Peace, is to the Tribunal of the First Instance of the district.

TRIBUNALS OF FIRST INSTANCE.

The Tribunal of the First Instance is composed of from three to twelve judges, according to the population of the district. If

the court has seven or more judges, it is divided into two chambers, one of which has charge of criminal and the other of civil matters.

If the court has twelve judges, it is divided into three chambers, two civil and one criminal. The Tribunal of First Instance at Paris being very large, is divided into ten chambers. It has one procureur imperial, or attorney-general, with twenty-two deputies, and one registrar, with forty-two deputies.

The concurrence of *three* judges of a chamber, in this court in civil cases, and of *five* in criminal cases, is necessary for a decision.

One of the judges of this tribunal is appointed to act in the district for three years as a judge of criminal instruction. There is usually one to every criminal chamber, and attached to the Paris Tribunal of First Instance there are eleven. This judge, in conjunction with the procureur imperial (district attorney), examines every case of criminal accusation, and makes his report once a week to the criminal chamber of the Tribunal of First Instance, and that body, which must be composed of at least five judges, decides whether the party accused shall be discharged or not. If they decide that he shall not be discharged, they send the case to the criminal chamber of the Court of Appeal of the jurisdiction for further examination, and if that body think that a crime has been committed, and that it is of sufficient gravity, they send the case to the Court of Assise of the department to be tried by a jury.

The decisions of the Tribunals of First Instance are reviewable in the Court of Appeal of the jurisdiction.

The judges are appointed for life.

#### COURTS OF APPEAL.

There are twenty-seven Courts of Appeal in France, now called Imperial Courts, each of which takes its name from the city or place where it is established. Each court is divided into chambers, corresponding usually with the number of departments over which the court has jurisdiction; so that in the twenty-seven courts, there are eighty-six chambers, that being the number of the departments in France.

Each Court of Appeal is composed of at least twenty-four judges, who are called counsellors, and is usually divided into

three chambers, one having cognisance of civil cases, one of criminal accusations, and the other of appeals in police matters. In the civil chamber, seven judges must concur in a decision, and in the chamber of accusation, five. There is one general president, and a president for each chamber, who is selected by the judges of that chamber.

The Court of Appeal in Paris has six chambers, a first president, six presidents of chambers and fifty-nine judges.

In important matters, such as questions of state, or very difficult questions, two chambers, where there are more than one, are united, and the decision must be concurred in by fourteen judges. This is termed the solemn hearing, and is called by the first president of his own motion or by him, upon the request of one of the chambers, in a matter which they deem of sufficient importance.

The appeal from this court is to the Court of Cassation, and must be brought within three months.

The judges are all appointed for life, but may retire or be retired upon a pension after thirty years' service, or in the event of permanent infirmity.

#### COURT OF ASSISE.

There is also a Court of Assise, composed of judges of the Court of Appeal in each department (or eighty-six in all), for the trial of criminal cases with a jury. Where the seat of the Court of Appeal is within the department, the Court of Assise of the department is held by three of the judges of the Court of Appeal, the senior judge being president, and when such is not the case the Court of Assise is held by one judge of the Court of Appeal, and two judges of the Tribunal of First Instance of the district where the Court of Assise is held; the judge of the Court of Appeal being president.

The Court of Assise is held every three months, usually at the chief town of the department. The one in Paris is held twice every month. The trial is public; the jury is composed of twelve; they pass only upon the facts, and a verdict by the majority is sufficient. The appeal from the judgment of the Court of Assise is to the Court of Cassation, and must be brought within three days.

## TRIBUNALS OF COMMERCE.

There are in all the commercial towns and cities in France what are known as Tribunals of Commerce. The number or the locality of these courts is not fixed by law, but is determined by the government, according to the exigencies of each locality. This court takes cognisance only of disputes and transactions between merchants, tradesmen, bankers, or of matters connected with trade or commerce, in which is included bankruptcy. It is composed of a president, of judges and of supplemental judges. The number of the judges must not be less than two nor more than fourteen. The number of supplemental judges is in proportion to the exigency of the public service. The number of each in each tribunal is fixed by a government regulation. The judges of this tribunal serve for two years, without compensation, and are elected by an assembly of the most eminent commercial men within the district, the list of the electors being prepared by the prefect of the department, and approved by the minister of the interior. Any commercial man thirty years of age, who has exercised his calling with honor and distinction for five years, may be elected either as a judge or a supplemental judge. The president must be forty years of age, and be chosen from among those who have served as judges. Three judges, at least, must concur in a decision. If the amount involved is under 1500 francs (\$300) there is no appeal, nor in any matter, if the parties give their consent to abide by the decision without appeal. In all other cases an appeal lies to the Court of Appeal within the jurisdiction, and takes priority in the court over other appeals.

In the Tribunal of Commerce in Paris, there were in the year 1853, 51,042 cases, of which 35,257 went by default, 10,465 were put at issue, 2663 were conciliated, and 1985 were withdrawn. This tribunal has a general president, ten judges and sixteen supplemental judges. It is in session every day throughout the year except Sundays, and is one of the most useful courts in France.

## COURT OF PRUDHOMMES.

(*A Mechanic's or Workingman's Court.*)

There is in the cities of Paris and Lyons, and in some of the other cities, a court called *The Court of Prudhommes* (literally

good and true men, but meaning in this connection men well versed in some art or trade). It takes cognisance of all contests between manufacturers or master workmen, and their workmen and apprentices. It acts first as a court of conciliation, and if that fails, it has jurisdiction to the amount of 200 francs (\$40), without appeal, and jurisdiction to any amount subject to appeal to the Tribunal of Commerce, if there is one in the district, and if not to the Tribunal of First Instance.

This Court of Prudhommes consists of a council composed of master-workmen or manufacturers, and of foremen, being six of each, equally balanced; one-half of each of which go out every two years, but are re-eligible. They are elected by the members of their respective classes. To them is added a president and two vice-presidents, appointed by the sovereign for three years, but who are re-eligible.

This is a very practical and most useful tribunal. It sits every day except Sunday, decides cases with great despatch, with little expense, and generally to the satisfaction of both parties. They are usually settled by conciliation. There are in the Paris Tribunal about 4000 cases in the year, two-thirds of them relating to wages. The judgments seldom exceed one hundred annually, and appeals are rare.

#### COURT OF ACCOUNTS.

The next court is the Court of Accounts. It is a court of exchequer, before which matters come relating to the public expenditure, all fiscal matters, claims against government, the administration of poor-houses, hospitals, public charities, &c. It has a first president, three presidents, eighteen counsellors or masters of account, and eighty referees, divided into two classes, a registrar and deputies and three chambers, each of which have separate duties. The appeal from this court is to the Council of State.

#### COURT OF CASSATION.

The last and highest of the permanent courts of France is the Court of Cassation. It is composed of fifty judges, called counsellors, and is divided into three chambers, one of request (matters arising upon petition), one civil, and one criminal and police. It has a first president and three presidents of chambers.

It is the final appellate court from all intermediate tribunals of last resort, such as the Courts of Appeal.

An appeal to it must be brought within *three* months after the judgment appealed from was rendered.

It does not, as the Courts of Appeal do, review the merits, but as its name imports, breaks the judgment, if the forms of procedure have been violated, or the judgment is founded upon an erroneous interpretation of the law, and sends the case back for another hearing, usually to a different tribunal, but one of the same rank, as the one that first decided it. The court to which it is sent, is not, as our inferior courts are, bound by the interpretation given to the law by the higher tribunal, but may make the same decision as the former tribunal, if it thinks that the decision of the Court of Cassation was erroneous, though, of course, great deference is paid to the opinion of the higher tribunal. Instances have occurred in which three different courts of appeal rendered the same judgment notwithstanding it had been twice declared by the Court of Cassation to be erroneous. Where such is the case, the question is no longer agitated, but the government (the Corps Legislatif), with the sanction of the emperor, makes a decree declaratory of the law, which is binding thereafter upon all judicial tribunals.

The appellant must deposit 150 francs (\$30), which he forfeits to the other party if he fails, and is sentenced in addition to pay 300 francs (\$60), to the state.

No chamber of the Court of Cassation can give judgment unless it is composed of seven judges, including the president.

Each chamber appoints its own president, and five members go out of each chamber every six months, but not until they have finished all the matters heard before them. The Civil Chambers sit every week day except during the months of September and October; the Criminal continuously throughout the year, and the session is four hours a day.

In great or very important cases, the three chambers are called together by the first president of his own motion or upon the request of one of the chambers. The judges are robed in scarlet upon the occasion, and when they come together it is the most imposing and dignified judicial body in the world.

The judges of the Court of Cessation are appointed for life, and

are retired in the same manner as the judges of the Courts of Appeal.

### HIGH COURT OF JUSTICE.

The highest court in France is the High Court of Justice, which assembles only when an imperial decree is issued for its convocation for the trial of offences against the life of the sovereign or the safety of the state. It is composed of five judges and five supplementary judges, chosen from the judges of the Court of Cassation, and of a jury of thirty-six chosen from the members of the councils general of the departments. The judges and the jury are appointed annually by the sovereign.

The foregoing is a concise but accurate and full statement of the whole judicial organization of France. It does not however embrace any changes that may have been made during the past ten years, as the writer has not had facilities for ascertaining what laws or decrees have been enacted within that period. It may be added that the civil judicial organization of France is regarded as very perfect, and that the jurists of no country have done more to advance the science of jurisprudence.<sup>1</sup>

C. P. D.

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<sup>1</sup> The jurisdiction of the Imperial Court of Paris embraces seven departments—Aube, Eure-et-Loire, Marne, Seine, Seine-et-Marne, Seine-et-Oise, Yonne—comprising thirty-one districts, the united population of which in 1861 was 3,847,218.

The population of the state of New York in 1865 was 3,831,500, being 5718 less than the portion of France above referred to, and as the portion of France includes the principal city in France, Paris, and this state the principal city in the United States, a comparison of the two will serve to show the relative judicial force of this state as compared with that of France.

#### *New York.*

Judges of the Court of Appeals, . . . . .	4
“ Supreme Court, . . . . .	33
“ Superior Court of New York, . . . . .	6
“ “ “ Buffalo, . . . . .	3
“ New York Common Pleas, . . . . .	3
“ Marine Court of New York, . . . . .	3
“ City Court of Brooklyn, . . . . .	1
County judges, . . . . .	60
Surrogates, . . . . .	26
Special surrogates, . . . . .	7
Special judges, . . . . .	14
Recorders and city judges of New York, . . . . .	14
Judges of sessions, . . . . .	120
Total, . . . . .	295